

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF WISCONSIN  
3 MILWAUKEE DIVISION

4 TRACY L. WINK,

5 Plaintiff,

6 vs.

Case No. 14-C-367

7 MILLER COMPRESSING COMPANY,

8 Defendant.

9 -----

10

11

Deposition of MATTHEW E. CHAVEZ

12

Monday, January 26th, 2015

13

2:58 p.m.

14

at

15

ALAN C. OLSON & ASSOCIATES, S.C.

16

2880 South Moorland Road

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New Berlin, Wisconsin

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Reported by Elaine A. Thies, RPR

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1 Deposition of MATTHEW E. CHAVEZ, a  
 2 witness in the above-entitled action, taken at the  
 3 instance of the Plaintiff, pursuant to Chapter 804 of  
 4 the Wisconsin Statutes, pursuant to notice, before  
 5 Elaine A. Thies, RPR and Notary Public, State of  
 6 Wisconsin, at ALAN C. OLSON & ASSOCIATES, S.C., 2880  
 7 South Moorland Road, New Berlin, Wisconsin, on the  
 8 26th day of January, 2015, commencing at 2:58 p.m.  
 9 and concluding at 3:35 p.m.

10

## 11 A P P E A R A N C E S:

12 ALAN C. OLSON & ASSOCIATES, S.C., by  
 13 Mr. Alan C. Olson and Ms. Brianna M. Covington  
 14 2880 South Moorland Road  
 15 New Berlin, Wisconsin 53151  
 16 Appeared on behalf of the Plaintiff.

17 THOMPSON COBURN LLP, by  
 18 Ms. Susan M. Lorenc  
 19 55 East Monroe Street, 37th Floor  
 20 Chicago, Illinois 60603  
 21 Appeared on behalf of the Defendant.

22 ALSO PRESENT: Sarah Barbian

19

## 20 I N D E X

21 Examination by: Page  
 22 Mr. Olson 3

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## 24 E X H I B I T S

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25 A No.

4

1 Q Have you ever been a party to a lawsuit before?

2 A No.

3 Q Have you ever tested positive for drugs or alcohol?

4 A No.

5 Q Do you know of any reason why you would not be able  
6 to give accurate testimony today?

7 A No.

8 Q What did you do to prepare for your deposition  
9 today?

10 A I just spoke briefly with Susan.

11 Q When was that?

12 A Friday afternoon.

13 Q For how long?

14 A About 45 minutes I believe.

15 Q Did you speak in person or by phone?

16 A By phone.

17 Q Did you review any documents related to this case?

18 A No.

19 Q Have you ever reviewed documents related to this  
20 case?

21 A No.

22 Q What is your educational background?

23 A Some college. High school, some college.

24 Q Okay. And you worked at Miller Compressing during  
25 what time period?

5

1 A October 1997 until February 28th, 2014.

2 Q And your separation was for what reason?

3 A Two things: One was the scrap market took a dive,  
4 and I guess they just no longer needed my -- needed  
5 me anymore. I guess kind of like a duplication of  
6 responsibilities.

7 Q Okay. And did you have any disagreement with the  
8 employer as to the circumstances surrounding the  
9 separation?

10 A No, I understood.

11 Q Did they provide you with a severance package?

12 A Yes.

13 Q How many weeks of severance pay did you receive?

14 MS. LORENC: And I'm going to object. I  
15 have not seen the document, but to the extent  
16 there's a confidentiality provision, I would just  
17 ask you to adhere to that.

18 MR. OLSON: Confidentiality is not a  
19 basis to instruct a witness not to answer.

20 MS. LORENC: I don't think I did. I said  
21 I asked him to adhere to that. But you can answer  
22 the question if you can answer it.

23 BY MR. OLSON:

24 Q So the attorney is not telling you not to answer  
25 the question about how many weeks of severance pay

6

1 you received. How many weeks of severance pay did  
2 you receive?

3 A I don't recall right now.

4 Q Do you recall the dollar amount?

5 A No, not exactly, no.

6 Q Okay. That was about -- that was less than a year  
7 ago that you got that?

8 A Yes.

9 Q Okay. Was it less than a hundred thousand?

10 A Yes.

11 Q Was it more than 10,000?

12 A Yes.

13 Q Was it more than 30,000?

14 A No.

15 Q Somewhere between ten and 30?

16 A Close to ten I'd say.

17 Q Okay. And did you have to sign a release in  
18 connection with that?

19 A Yes.

20 Q Did you sign a -- what's known as a  
21 non-disparagement clause?

22 A I'm not sure.

23 Q A non-disparagement clause would be, just to  
24 clarify, an agreement where you agree to not say  
25 anything bad about the company.

7

1 A I don't recall reading anything like that.

2 Q Okay. And did you consult an attorney -- don't  
3 tell me what was said if you did, but did you  
4 consult an attorney about the document?

5 A No.

6 Q And have you secured employment since then?

7 A Yes.

8 Q Okay. And where do you work currently?

9 A Tapco.

10 Q When did you start there?

11 A Let's see. Early October 2014.

12 Q All right. Is your job similar there to what you  
13 had at Miller?

14 A Not necessarily, no.

15 Q Okay. What is your home address?

16 A 2222 North Lefebber Avenue, Wauwatosa, Wisconsin  
17 53213.

18 Q And what is the best phone number to reach you at?

19 A 414-426-2320.

20 Q Okay. Did you receive messages from my office to  
21 try and reach you?

22 A Yes.

23 Q Okay. How many of those did you receive? Three or  
24 four?

25 A I believe three.

8

1 Q Okay. And why did you not respond to those?

2 A Because Alter -- Susan is representing me and I did  
3 not want to talk -- to speak to you directly without  
4 representation.

5 Q Okay. Did anyone suggest to you not to talk to me?

6 A Yes.

7 Q Okay. They told you not to talk to me; correct?

8 A Yes.

9 Q And you understood that you are being represented  
10 now by Alter's attorneys?

11 A Yes.

12 Q Okay. And that representation started when?

13 A I don't know. I assume it was when I was called to  
14 give a deposition.

15 Q Okay. When were you told -- on what date were you  
16 told that you were not to talk to me?

17 A I don't know.

18 Q Was it recent or months ago, around the time of the  
19 termination, when the lawsuit was filed?

20 A No, last week.

21 Q Okay. And you were told not to return my calls?

22 A No.

23 Q You were just told not to talk to me?

24 A Yes.

25 Q Okay. But you didn't talk to -- You didn't return

9

1 our calls before that; correct?

2 A Correct.

3 Q Okay. And had you been told by anyone not to

4 return our calls?

5 A No.

6 Q When did you first receive notice that a lawsuit

7 had been filed in this case?

8 A I don't know the specific date but sometime in 2014.

9 Q Okay. And did you have an understanding prior to

10 that time that it was likely a lawsuit would be

11 filed?

12 A No.

13 Q What was your progression of jobs at Miller

14 Compressing?

15 A I started as a messenger -- excuse me, let me go

16 back. For a couple days I started on -- in the yard

17 on the sorter. That wasn't working out. They had a

18 position as a messenger. I took that and I did that

19 for about a year or so. Then I went to the scale and

20 I became a scale operator. And several years after

21 that I went into the -- what we call the order

22 processing department and I became a team leader  
23 there -- training first, then team leader.  
24 Q Was that the last position you held is team leader?  
25 A Yes.

10

1 Q Okay. And as a team leader were you an exempt  
2 employee for purposes of overtime?  
3 A Initially, no, but eventually, yes.  
4 Q Okay. And when did you become exempt?  
5 A I'm not sure.  
6 Q Was there an event that occurred that coincided  
7 with you becoming exempt such as a change in title  
8 or change in duties?  
9 A No.  
10 Q Approximately how long were you not paid overtime  
11 at the end of your employment?  
12 A I'd say maybe three years.  
13 Q Okay. Did you work more than 40 hours a week  
14 during the end of your employment --  
15 MS. LORENC: Objection --  
16 BY MR. OLSON:  
17 Q -- during the last three years of your employment?  
18 MS. LORENC: Objection. You can answer.  
19 BY MR. OLSON:  
20 Q You can answer.

21 A Yes.

22 Q How much overtime did you work per week during the

23 last three years of your employment?

24 A I don't know.

25 Q What's your best estimate?

11

1 A It varied. I can't give you an estimate.

2 Q Okay. What was the least amount of overtime you'd

3 work during -- let's look at the 2012 time period.

4 A I'd get at least 40 hours in.

5 Q Okay. And then what was the --

6 A And -- excuse me.

7 Q Sure, go ahead.

8 A And when I did go to salary, it was understood I

9 would get a certain amount of time in over 40 hours.

10 Q Okay.

11 A And I don't know how that was calculated.

12 Q So when you went to salary, are you saying that

13 your overtime was rolled into your salary or that

14 you were paid extra if you worked over 40 hours?

15 A It was rolled in.

16 Q It was rolled in. Okay. So when did you go to

17 salary?

18 A Like I said before, I'm not sure.

19 Q Did that coincide with you becoming a team

20 leader --

21 A No.  
22 Q -- or sometime after that?  
23 A Yes.  
24 Q So you were initially a team leader hourly --  
25 A Yes.

12

1 Q -- getting overtime, then they changed it?  
2 A Yes.  
3 Q And did you supervise other employees as a team  
4 leader?  
5 A Other -- what do you mean by other employees?  
6 Q Employees other than yourself.  
7 A Yes.  
8 Q How many?  
9 A It varied.  
10 Q Okay. I assume it went down over time?  
11 A Yes.  
12 Q Okay. So was it around six and then decreased?  
13 A I'd say around six.  
14 Q Okay. And then at the end how many were you  
15 supervising?  
16 A Probably -- I believe two or -- two I believe.  
17 Q All right. And in 2012 how much of the work were  
18 you doing that was the same as what your employees  
19 you were supervising were doing?

20 A I don't recall.  
21 Q Were you doing a lot of the same tasks that they  
22 were doing --  
23 A I would assist --  
24 Q -- or were you delegating that work?  
25 A I was delegating it but I would assist if necessary.

13

1 Q Would you say that you were doing more or less than  
2 50 percent of the same work that your employees  
3 were doing?  
4 A Much less than 50 percent.  
5 Q Okay.  
6 A And it was as needed.  
7 Q As the company reduced its workforce, did your  
8 overtime hours increase, stay the same, or go down?  
9 A I don't recall.  
10 Q Was there a push at some point in 2012 to have  
11 fewer people doing more work?  
12 A I would say so, yes.  
13 Q Okay. Was your time there recorded in some way; by  
14 computer log-on or time punch or anything like  
15 that?  
16 A No.  
17 MS. LORENC: Objection to form. You can  
18 answer.  
19 BY MR. OLSON:

20 Q As a result of fewer people doing more work, was  
21 there an expectation that was communicated to you  
22 that you work more hours than you had been  
23 previously?

24 A No.

25 Q So you continued to work about the same hours

14

1 before and after the reductions in force at the  
2 company; is that accurate?

3 A I really don't recall.

4 Q So you may have worked more hours, you may have  
5 worked less, you don't know one way or the other;  
6 is that right?

7 A That's correct.

8 Q Did you receive any training regarding the FMLA law  
9 at any time?

10 A No.

11 Q Did you have any job responsibility concerning the  
12 FMLA?

13 A Yes.

14 Q What was your job duty or duties in that regard?

15 A It was administering or keeping -- I should say --  
16 excuse me -- keeping track of the FMLA time.

17 Q Okay. And how did you do that?

18 A On a spreadsheet.

19 Q Was that on a computer?  
20 A Yes.  
21 Q Was there a particular software that you used for  
22 that purpose?  
23 A Microsoft Excel.  
24 Q And did you maintain that record for time by  
25 Ms. Wink?

15

1 A Yes.  
2 Q Did you maintain it for any other employees?  
3 A No.  
4 Q Is that an Excel spreadsheet you developed  
5 specifically to track Ms. Wink's hours, or was that  
6 a document that already existed?  
7 A Specifically for Ms. Wink.  
8 Q At whose direction?  
9 A I believe it was my own.  
10 Q Did you discuss that spreadsheet with anyone?  
11 A Yes.  
12 Q With whom did you discuss the spreadsheet for the  
13 FMLA hours?  
14 A Someone in HR. I believe it was Peggy. Possibly  
15 Sarah. Peggy --  
16 Q Peggy Malmstadt?  
17 A Yes.  
18 Q Or Sarah Barbian?

19 A Correct.

20 Q Okay. When did you begin keeping track of the FMLA

21 hours?

22 A I don't recall.

23 Q And on what computer did you keep track of those

24 hours?

25 A My work computer.

16

1 Q Was that part of the company network computer --

2 A Yes.

3 Q -- on the server?

4 A Yes.

5 Q Who had access to that spreadsheet other than

6 yourself, in other words, just by going into the

7 computer? Do you know of somebody who would go in

8 and look at it or put information into it or

9 anything like that?

10 A Only I would do that.

11 Q Okay. And did you print it out from time to time?

12 A I don't recall but I know I e-mailed it.

13 Q Okay. To whom did you e-mail the document?

14 A Peggy.

15 Q For what purpose did you e-mail that document to

16 Ms. Malmstadt?

17 A To keep her up to speed as to where we were with the

18 FMLA time.  
19 Q And the FMLA time, are you referring to when that  
20 started in 2011 or some other time period?  
21 A I don't recall.  
22 Q When --  
23 A Well -- excuse me. It would be in 2012 or so -- I'm  
24 not sure when it started, but it was to document  
25 Tracy's FMLA time.

17

1 Q Okay. And why did that become an issue in 2012 in  
2 contrast to prior times, because we're aware that  
3 she was on FMLA before that?  
4 A Because she was using vacation time -- or I should  
5 say paid time off and FMLA time.  
6 Q So in other words, she was substituting paid time  
7 to use it for pay during her FMLA qualifying time?  
8 A Yes.  
9 Q Okay. So --  
10 A You know --  
11 Q -- were you doing it so payroll had a record as to  
12 what they would charge her?  
13 A I don't recall if payroll was involved. They would-.  
14 Q Do you have anything to add?  
15 A No, I'm sorry. No.  
16 Q So why was it that the fact that she was using  
17 vacation pay to apply to her FMLA time that

18 prompted you to document it on a spreadsheet?

19 A To distinguish between the two different times,  
20 whether or not it was FMLA time or paid time off, and  
21 I believe there may have been non-paid time.

22 Q Okay. Now, I think the record shows that during  
23 prior FMLA leaves, she did substitute in paid time  
24 for that. Do you know why during that time period  
25 you did not put it in a spreadsheet and during 2012

18

1 you did?

2 A I recall it becoming very complex, her -- excuse  
3 me -- her schedule becoming very complex because she  
4 was working from home and she was I believe out for  
5 different reasons --

6 Q Okay.

7 A -- her own medical issues and her son's --

8 Q Okay.

9 A -- and it was becoming very complicated.

10 Q What did you understand were her son's medical  
11 issues?

12 A From what I understand he had behavioral issues.

13 Q Okay. Did you understand it was some form of  
14 autism?

15 A Yes.

16 Q Okay. Did you understand that she, Ms. Wink, did

17 not have day care for her son with autism?

18 A Yes.

19 Q Did you understand that one of the reasons that she  
20 had applied for intermittent FMLA was so that she  
21 could care for her son two days per week at her  
22 home?

23 A Yes.

24 Q And did she share with you that her mother was not  
25 available on those two days to care for him?

19

1 A Yes.

2 Q And did you understand that through the end of --  
3 to be the case through the end of Ms. Wink's  
4 employment?

5 A Yes.

6 Q Did anyone suggest to you that perhaps Ms. Wink was  
7 using too much FMLA time and that it was  
8 interfering with her work?

9 A No.

10 Q Did you ever form that conclusion?

11 A No.

12 Q In -- Well, with respect to FMLA regarding her  
13 son's autism, do you know when she first applied  
14 for that?

15 A I don't recall.

16 Q Did she apply through you or discuss it with you at

17           that time that she was applying?

18   A     I would be involved, yes.

19   Q     Do you remember that conversation?

20   A     No.

21   Q     Now, that spreadsheet, do you know if that was

22           produced during the discovery process in this

23           litigation?

24   A     I don't know.

25   Q     Were you ever asked to produce it?

20

1    A     No.

2    Q     Now, you said you've e-mailed it to Malmstadt. How

3           many times did you e-mail it to her?

4    A     I don't know.

5    Q     When was the first time you talked to anyone about

6           changing Ms. Wink's job in some manner that would

7           discontinue her being at home two days per week?

8    A     I don't recall.

9    Q     Do you remember discussing it at all at any time?

10   A     Yes.

11   Q     Okay. And when is the first time you remember

12           discussing that?

13   A     I don't recall.

14   Q     Can you identify the context within which you

15           talked about that?

16 A Yes.

17 Q Okay. What was that?

18 A At the time we had to make a decision within the  
19 department to cut an additional person, and at the  
20 time there was a lot of talk about the company being  
21 sold.

22 Q Okay.

23 A It wasn't official necessarily but there was talk  
24 about that happening.

25 Q Okay.

21

1 A And from what I recall, my supervisor at the time --

2 Q Who was that?

3 A Margo Eshleman.

4 Q Okay.

5 A -- was told by upper management that we had to cut an  
6 additional person in the department.

7 Q Okay. And how did that relate to Ms. Wink working  
8 in the office three days and then being at home two  
9 days per week?

10 A We had to decide, as we have in the past, who was the  
11 most cross-trained in different areas within the  
12 department.

13 Q Okay. And was Ms. Wink identified as someone who  
14 was most cross-trained?

15 A Yes, she was.

16 Q So would she be in that regard at least the most  
17 useful as far as being able to cover various areas?  
18 A Yes, if she was there full-time.  
19 Q Okay. So in other words, if she were there and not  
20 at home two days a week with her son, then she  
21 would be able to apply her different areas of  
22 experience on the job in the office?  
23 A That's correct.  
24 Q Okay. And so with whom did you have your first  
25 conversation about Ms. Wink being in the office

22

1 full-time?  
2 A My supervisor Margo.  
3 Q Anyone else?  
4 A I don't recall.  
5 Q Okay. And then when was the next time you had any  
6 communication with anyone about Ms. Wink being in  
7 the office five days a week?  
8 A I don't recall.  
9 Q Did you ever discuss the topic with Sarah Barbian?  
10 A Yes.  
11 Q When was that in relation to Ms. Wink's separation  
12 of employment?  
13 A I don't recall.  
14 Q Was it within a month, within a week, a day; do you

15           have any recollection?

16   A    A month, weeks. Several -- a couple weeks.

17   Q    Okay. And as specifically and completely as you

18           can recall, what did you discuss with Ms. Barbian

19           about Ms. Wink being required to work in the office

20           five days a week?

21   A    I know we discussed -- we explained to her what Margo

22           and I -- what our findings were, what our --

23   Q    You and Margo explained it to Barbian?

24   A    I'm not sure if Margo was involved. I believe she

25           was.

23

1   Q    In any event, you told what you had concluded with

2           Margo, you passed this on then to Ms. Barbian?

3   A    Yes.

4   Q    All right. And what did you say to Ms. Barbian?

5   A    I don't recall specifics exactly what I said, but we

6           explained the situation as far as what we were

7           leaning towards.

8   Q    Which was?

9   A    It was going to be either Tracy Wink or her sister

10           Kim Noonan who would be our choice to be let go.

11   Q    Ms. Wink or Noonan would be let go?

12   A    Correct.

13   Q    And I thought you said that if Wink were full-time

14           in the office, that she'd be the best person to

15 keep on due to her cross-training?

16 A That's true, that's correct.

17 Q Okay. Well, then why would you go to Barbian and

18 recommend that Wink would be one under

19 consideration for discharge?

20 A Because -- I don't recall the specifics, but Kim was

21 just as knowledgeable as Tracy was when it came to

22 being cross-trained.

23 Q But didn't you have a total of six people in your

24 department?

25 A At that time I don't recall but it was not six

24

1 people. That was at the high end.

2 Q Was it down to four then?

3 A I'm -- I'm not certain. I'm not sure.

4 Q Okay. Was one of the reasons that Ms. Wink was

5 considered for discharge that even though she had

6 cross-training, she wasn't available to be in the

7 office five days a week?

8 A That wasn't the sole reason I would say.

9 Q It was -- it was a reason?

10 A Sure, I would say that's true.

11 Q Okay. And you told that to Barbian, or did she

12 tell that to you?

13 A No, we just explained the situation, you know, where

14 everyone was and the cross-training.

15 Q But did Barbian agree with you that even though

16 Wink had been cross-trained and was versatile -- am

17 I using the right term, being versatile? --

18 A Yes.

19 Q -- that because she was not available two days per

20 week and couldn't be in the office, that that was

21 something that counted against her as far as

22 continuing her employment?

23 A That is true. That was my -- that was my -- that was

24 my and Margo's --

25 Q Assessment?

25

1 A -- assessment, yes.

2 Q Okay. And Ms. Barbian agreed with you?

3 A I don't think it was -- I think so, yes.

4 Q She certainly didn't vocalize disagreement; is that

5 true?

6 MS. LORENC: Objection. You can answer

7 it if you recall.

8 THE WITNESS: I don't recall.

9 BY MR. OLSON:

10 Q Now, you understand in this deposition that even if

11 the attorney for the company suggests that you may

12 not recall an answer, if you recall you have to

13 give a complete answer?

14 A (Witness nodded head.)

15 MS. LORENC: I didn't suggest that he  
16 doesn't recall. I said if he does he can answer.

17 MR. OLSON: Right.

18 BY MR. OLSON:

19 Q I just don't want a situation where the lawyer is  
20 saying if you recall and you pick that up as a clue  
21 that that's something you shouldn't remember for  
22 some reason. Do you understand that?

23 A I understand that.

24 Q All right. Now, were you involved in the  
25 separation of Ms. Wink's employment?

26

1 A Yes.

2 Q And were there a couple meetings around her  
3 separation?

4 A Yes.

5 Q Okay. And the -- one of the main requirements of  
6 Ms. Wink was that if she were going to continue  
7 with the company, she would have to be in the  
8 office five days a week?

9 A Yes.

10 Q And Ms. Wink responded on that Friday that she  
11 didn't think she'd be able to come up with coverage  
12 for her son's care by the following Monday; is that

13 accurate?

14 A I don't believe she -- I'm not sure if she actually

15 said that, but that was the -- that's what she

16 implied because of her reaction to the situation.

17 Q She was upset?

18 A Yes.

19 Q And the communication between management and

20 Ms. Wink was that unless she could commit by the

21 following Monday to be in the office five days a

22 week, she could not continue her employment there;

23 true?

24 A That's true.

25 Q And she said words to the effect I have to care for

27

1 my son two days a week; yes? At least in part?

2 A I don't recall.

3 Q Do you remember the gist of the communication from

4 her as I have to be able to care for my son two

5 days a week, my mom can only do it three days a

6 week?

7 A The gist was she could not.

8 Q She couldn't be in the office --

9 A Correct.

10 Q -- five days a week; correct?

11 A The gist of it, yes.

12 Q And the reason she gave was that she had to care

13           for her son two days per week; true?

14    A    She did not necessarily say that but it's implied,

15           yes --

16    Q    Well, everybody --

17    A    -- she could not cover that. She could not be --

18           yes, because her son needed day care, yes.

19    Q    All right. And you knew her son because of his

20           dangerous condition could not be in day care?

21    A    Yes.

22    Q    And the following Monday Ms. Wink reported to you

23           and Ms. Barbian that she was not able to arrange

24           alternate care for her son on such short notice;

25           true?

28

1    A    She did not -- she did not tell that to me.

2    Q    Were you aware of her communicating that to

3           Ms. Barbian?

4    A    I -- I know that she communicated something to Sarah,

5           but what that was I don't know --

6    Q    Okay.

7    A    -- specifically what it was, but, yes, she could

8           not -- she could not agree to our terms, what we

9           asked of her.

10   Q    Okay. And the terms being that she be in the

11           office five days a week?

12 A Correct.

13 Q And as of July 16, 2012, the Monday after the

14 Friday discussion --

15 A Yes.

16 Q -- you understood from Barbian that Wink had gone

17 back to Barbian and said I could not make

18 arrangements for my son's care so I couldn't be --

19 I can't be in the office five days a week; is that

20 accurate?

21 MS. LORENC: Objection to form. You can

22 answer.

23 THE WITNESS: Those words -- I don't know

24 what Tracy told Sarah directly.

25

29

1 BY MR. OLSON:

2 Q Right.

3 A The point was it was relayed to me that she could

4 not -- she could not meet our request.

5 Q Regarding the hours?

6 A Yes.

7 Q And you knew that because that's what Barbian told

8 you?

9 A Yes.

10 Q And that was the reason that Wink's employment

11 ended; is that accurate?

12 A Well, from my understanding -- from what I recall on  
13 that Friday, she was told if she were to -- if she  
14 left the room, that she would -- they would consider  
15 that her quitting. Okay. Again, I --  
16 Q Now, did you consider her to have quit as of  
17 Friday?  
18 A Yes.  
19 Q So as far as you knew, as of Friday she was done  
20 with the company?  
21 A Yes.  
22 Q But then you later learned from Barbian that the --  
23 if she would have made day care arrangements for  
24 her son, that her employment would have continued?  
25 A If -- yes, plus other things that we requested of

30

1 her.  
2 Q Sure. Were you aware that Barbian called Wink on  
3 the phone about 20 minutes after Wink left the  
4 office upset on that Friday?  
5 A Yes, I do.  
6 Q Okay. Now, that -- that meeting that you had with  
7 Wink on that Friday, was that at the end of the  
8 workday?  
9 A Near the end of the workday, yes, late in the day.  
10 Q Okay. And were you present on Barbian's end of the

11 call when she got ahold of Wink by telephone on  
12 Friday?  
13 A I don't recall.  
14 Q Barbian told you about the call nonetheless?  
15 A I know -- I knew of the call.  
16 Q Okay. And Barbian told you that she gave Wink  
17 until Monday to let them know whether she could  
18 make arrangements for her son's day care?  
19 A I believe so.  
20 Q And in fact, you knew that Wink came in on that  
21 following Monday; correct?  
22 A I found out about it, yes. I found out about it  
23 after the fact, yes.  
24 MR. OLSON: Okay. All right. Those are  
25 my questions. Thank you.

31

1 THE WITNESS: All right.  
2 MS. LORENC: We'll read.  
3 (The proceedings concluded at 3:35 p.m.)  
4 (No exhibits marked.)  
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1 STATE OF WISCONSIN )  
 ) SS.  
2 MILWAUKEE COUNTY )

3

4 I, Elaine A. Thies, RPR and Notary  
5 Public in and for the State of Wisconsin, do hereby  
6 certify that the preceding deposition was recorded by  
7 me and reduced to writing under my personal  
8 direction.

9 I further certify that said deposition

10 was taken at ALAN C. OLSON & ASSOCIATES, S.C., 2880  
11 South Moorland Road, New Berlin, Wisconsin, on the  
12 26th day of February, 2015, commencing at 2:58 p.m.  
13 and concluding at 3:35 p.m.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

19 In witness whereof, I have hereunto  
20 set my hand and affixed my seal of office on this 6th  
21 day of February, 2015.

22

23 \_\_\_\_\_  
24 ELAINE A. THIES - Notary Public  
In and for the State of Wisconsin

25 My commission expires 11-4-17.

33

1        STATE OF WISCONSIN             )  
    ) ss.  
2        MILWAUKEE COUNTY              )

3

4 I, MATTHEW E. CHAVEZ, do hereby  
5 certify that I have read the foregoing transcript of  
6 proceedings, taken on the 26th day of January, 2015,  
7 at ALAN C. OLSON & ASSOCIATES, S.C., 2880 South  
8 Moorland Road, New Berlin, Wisconsin, and the same is  
9 true and correct except for the list of corrections,

10 if any, noted on the annexed errata sheet.

11

12 Dated at \_\_\_\_\_,

13 \_\_\_\_\_, this \_\_\_\_\_ day of

14 \_\_\_\_\_, 2015.

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\_\_\_\_\_  
MATTHEW E. CHAVEZ

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